

\$400.00
EGS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

DEAN L. COWLEY, SR. AND
HILLARY COWLEY, his wife
107 Harbor Road
Bellmawr, NJ 08031

Plaintiffs

v.

FREY BROTHERS, INC.
372 Puseyville Road
Quarryville, PA 17566

Defendants

COMPLAINT

Civil No. **14 5208**

COMPLAINT

NATURE OF THE ACTION

The cause of action arises as a result of a slip and fall accident that occurred on October 1, 2012. On October 1, 2012 the plaintiff was present at a business facility owned and operated by the defendant, Frey Brothers, Inc. in Quarryville, Pennsylvania. This is an action in diversity between citizens of different States.

JURISDICTION AND VENUE

1. The plaintiffs are citizens of the State of New Jersey. The defendant is a citizen of the Commonwealth of Pennsylvania. The amount in controversy, without interest and costs exceeds the sum or value specified in 28 USC § 1332. Jurisdiction is conferred upon this Court pursuant to 28 USC §1331.

2. Venue is proper in this district under 28 USC §1391(a) because the events giving rise to this litigation occurred in Pennsylvania.

PARTIES

3. Plaintiffs, Dean L. Cowley Sr. and Hillary Cowley are individuals and citizens residing at 107 Harbor Road, Bellmawr, New Jersey 08031.

4. The defendant is a Pennsylvania Corporation licensed to conduct business in the Commonwealth of Pennsylvania with its principal place of business at 372 Puseyville Road, Quarryville PA 17566.

STATEMENT OF CLAIMS

5. As a result of the negligence of the Defendant, plaintiff was caused to suffer severe and disabling injuries.

6. The defendants provide bulk mulch to members of the general public, and retailers.

7. The defendants manufacture, assemble, prepare, stain and otherwise generate mulch material from wood bi-products.

8. The defendant has a large facility where they conduct this business.

9. At all times material hereto the defendants acted through their duly authorized agents, servants, workman, and/or employees, who at all times material hereto were acting within the course and scope of that relationship.

10. On or about October 1, 2012 the plaintiff was a business invitee of the defendant, Frey Brothers, Inc. and was located at their facility, which is open to members of the general public located at 372 Puseyville Road, Quarryville, Pennsylvania.

11. The plaintiff was a business invitee of the defendants.

12. The plaintiff was on the loading dock receiving pallets of mulch when he was attacked by a wasp's nest which had been allowed to remain in the mulch and pallets which were being loaded onto the plaintiff's vehicle.

13. The defendant was aware or should have been aware of presence of the wasp nests which were frequent occurrences known to defendant, but unknown to plaintiff who was unfamiliar with the environment.

14. While on the loading dock the plaintiff was caused to fall due to a combination of the layout of the loading dock and the presence of the wasp nests.

15. The layout of the loading dock was under the control of the defendant at all relevant times.

16. As a result of the negligence of the defendants the plaintiff was caused to sustain injuries in about his head, neck, back, body, arms, legs, tendons, tissues, nerves and supporting structures along with a severe shock to his nerves and nervous system. The plaintiff particularly sustained a right leg fracture, broken ribs, lower back injury, disc herniations, radiculopathy, and headaches.

17. The plaintiff has been caused to undergo a course of medical treatment to his great detriment and loss. The plaintiff has incurred over fifty thousand dollars (\$50,000.00) in medical expenses.

18. The plaintiff has been advised and therefore avers that all of his injuries are of a permanent nature and character.

19. As a result of the injuries sustained in this incident the plaintiff has been unable to be involved in his normal daily activities and has sustained a loss of loss of earnings and earnings capacity, the plaintiff has incurred lost earnings in an amount in excess of thirty four thousand dollars (\$34,000.00) up to this date.

COUNT I

DEAN L. COWLEY vs. FREY BROTHERS, INC.

22. Plaintiff hereby incorporates by reference the preceding paragraphs of this Complaint as though each were set forth at herein at length.

23. The plaintiff has suffered pain and suffering. The plaintiff has been advised and therefore avers that all of his injuries are of a permanent nature and character.

24. The negligence of the defendant consisted of but was not limited to the following:

1. Failure to warn the plaintiff of the dangerous conditions;
2. Failure to properly light the area where the plaintiff fell;

3. Failure to properly secure the loading docks;
4. Failure to provide handrails, partition walls and/or other safety measures around the loading docks;
5. Failure to properly supervise and train their employees;
6. Failing to take reasonable safety precautions to keep the mulch in question from becoming a haven for wasps and wasps nest;
7. Failure to warn the plaintiff of the presence of the wasps or wasp nests;
8. Failure to make reasonable investigation regarding the condition of the mulch pallets and the loading docks;
9. Failure to properly monitor the processing of the mulch;
10. Failure to take reasonable precautions to keep wasps from nesting in the mulch;
11. Failure to properly operate or control the loading areas where plaintiff was working;
12. Failure to use due care.

WHEREFORE the plaintiff respectfully requests that judgment be entered in his favor in an amount in excess of Five Hundred Thousand Dollars (\$500,000.00).

COUNT II

HILLARY COWLEY VS. FREY BROTHERS, INC.

25. Plaintiff incorporates by reference herein the proceeding paragraphs of this complaint as though the same were set forth at length herein.

26. At all-time material hereto plaintiff, Hillary Cowley was married to Dean L. Cowley and as a result of the injuries sustained by Dean L. Cowley she has sustained a loss of consortium.


WHEREFORE the plaintiff respectfully requests that judgment be entered in her favor in an amount in excess of Five Hundred Thousand Dollars (\$500,000.00).

REQUESTED RELIEF

WHEREFORE, Plaintiffs Dean L. Cowley and Hillary Cowley respectfully pray that this Court award the following relief:

- a. Exercise jurisdiction over this matter;
- b. Award Plaintiff damages for past, present and future physical and mental pain and suffering and lost wages;
- c. Award Plaintiff their reasonable attorney fees and costs; and,
- d. Grant such other relief as the Court deems just proper and equitable; all of which is in excess of \$500,000.00.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. A. George', is written over a horizontal line.

Bryan A. George, Esquire
2337 Philmont Avenue, Suite 208
Huntingdon Valley, PA 19006
bryanageorge@verizon.net
(215) 938-8949

The JS 44 civil cover sheet and its instructions are to be filed with the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS DEAN L. COWLEY, SR. AND HILLARY COWLEY, his wife (b) County of Residence of First Listed Plaintiff NEW JERSEY <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i> (c) Attorneys (Firm Name, Address, and Telephone Number) 215-938-8949 BRYAN A. GEORGE, ESQUIRE 2337 PHILMONT AVENUE, SUITE 208 HUNTINGDON VALLEY, PA 19006	DEFENDANTS FREY BROTHERS, INC. County of Residence of First Listed Defendant PENNSYLVANIA <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)						
II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i> <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> <input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Citizen of This State</td> <td style="width: 50%;">Incorporated or Principal Place of Business In This State</td> </tr> <tr> <td>Citizen of Another State</td> <td>Incorporated and Principal Place of Business In Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>Foreign Nation</td> </tr> </table>	Citizen of This State	Incorporated or Principal Place of Business In This State	Citizen of Another State	Incorporated and Principal Place of Business In Another State	Citizen or Subject of a Foreign Country	Foreign Nation
Citizen of This State	Incorporated or Principal Place of Business In This State						
Citizen of Another State	Incorporated and Principal Place of Business In Another State						
Citizen or Subject of a Foreign Country	Foreign Nation						

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i> <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice </td> <td style="width: 50%;"> PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Ligation <input type="checkbox"/> 791 Employee Retirement Income Security Act SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability				
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes		

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from Another District *(specify)*
 ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing: *Do not cite jurisdictional statutes unless diversity*: 28 USC SECTION 1332

Brief description of cause: PERSONAL INJURIES FROM MOTOR VEHICLE ACCIDENT

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
 DEMAND \$
 CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY
(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

SEP 10 2014

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

MAJ

EGS

UNITED STATES DISTRICT COURT

14 5208

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 107 Harbor Road, Bellmawr, NJ 08031
 Address of Defendant: 372 Puseyville Road, Quarryville, PA 17566
 Place of Accident, Incident or Transaction: 372 Puseyville Road, Quarryville, PA 17566
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: AlR Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

1. Bryan A. George, Esquire counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought.

DATE: 9/11/14BAG
Attorney-at-Law43625
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/11/14BAG
Attorney-at-Law43625
Attorney I.D.#

CIV. 609 (5/2012)

SEP 10 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

EGS

Dean L. Cowley, Sr. and
Hillary Cowley, his wife
v.

Frey Brothers, Inc.

CIVIL ACTION

NO. **14 5208**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

9-8-2014
Date

Bryan A. George, Esq.
Attorney-at-law

Plaintiff
Attorney for

215-938-8949
Telephone

215-914-0897
FAX Number

bryanageorge@verizon.net
E-Mail Address

SEP 10 2014